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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,946	06/06/2006	Seiji Hosokawa	YAMAP0998US	3079
43076 7590 09/10/2009 MARK D. SARALINO (GENERAL) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE, NINETEENTH FLOOR CLEVELAND, OH 44115-2191				
EXAMINER				
GWARTNEY, ELIZABETH A				
ART UNIT		PAPER NUMBER		
1794				
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09/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### ATTACHMENT TO ADVISORY ACTION

The Amendment filed 08/20/2009 has been entered. Claims 1-7 and 9-17 are pending.

Applicant's arguments filed 08/20/2009 have been fully considered but they are not persuasive.

Applicants argue that "although it is well known that corn flour and rye flour do not contain active gluten, those skilled in the art would understand that Hosokawa (JP 2001-275552) does **not** teach or suggest to use a dough composition wherein the amount of active gluten is 5 weight% or less."

Examiner respectfully disagrees. Hosokawa explicitly discloses a dough composition comprising cereal flour and a pre-gelatinized flour wherein well known cereal flour conventionally used for pretzels are used, specifically, wheat flour, barley powder, rye flour, Oates powder, and corn flour ([0014],[0026]- machine translation). Given that it was well known that corn flour, rye flour and pre-gelatinized flour do not contain active gluten, it is clear that Hosokawa discloses a dough composition wherein the amount of active gluten is 5 weight% or less.

Applicants find that Hosokawa teaches that "active gluten is usually needed in order to obtain dough that is well stretched and elastic enough to remain in one piece." Further, applicants find that "those skill in the art would understand that a large amount of cereal flour containing active gluten must be added when corn flour or rye flour is used." Applicants contend that although Hosokawa describes in paragraph [0080] that "a skeleton of dough is formed in a different form from gluten" and that "even after the dough is extruded and formed in a hollow stick shape, the capability to maintain the shape is high," Hosokawa does not describe that

pregelatinized wheat flour contributes to a dough which is well stretched and elastic enough to remain in one piece.

While Hosokawa teaches that "active gluten" is important to producing dough that is stretched and elastic enough to remain in one piece, Hosokawa teaches a dough composition comprising essentially no active gluten, i.e. pregelatinized wheat flour and commel (i.e. corn flour) that is capable of being formed into a hollow stick shape that is maintained ([0080]- partial translation provided by applicant).

Applicants explain that "from Tables 1 and 2 of Hiroka (translation previously provided by Applicants), it can be understood that a higher amount of roasted wheat flour formulated results in a lower elasticity of the mixed dough, and that when 100% roasted wheat flour is used the resultant mixed dough became crumbled." Applicants find that the crumbled dough is not well stretched or elastic enough to remain in one piece, therefore if roasted wheat flour were used in Hosokawa, the resultant dough would not be well stretched or elastic enough to remain in one piece. Thus, applicants find that the dough would not be successfully formed into a hollow stick shape and one would not use roasted wheat flour as the ungelatinized flour of Hosokawa.

However, given Hosokawa discloses a dough composition comprising a flour with no active gluten (i.e. corn flour, rye flour) and pre-gelatinized flour wherein the dough is formed into a hollow stick, absent evidence to the contrary, it would have been obvious to one of ordinary skill in the art at the time of the invention to have replaced gluten-free flour (i.e. flour with no active gluten) with another gluten-free flour, such as roasted what flour, with the expectation that the dough would display similar properties. Further, there is nothing in the

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claim that requires that the dough be well stretched or elastic, but rather, the claim requires dough that can be formed into a hollow stick shape.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Gwartney whose telephone number is (571) 270-3874. The examiner can normally be reached on Monday - Friday; 7:30AM - 3:30PM EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. G./

Examiner, Art Unit 1794

/KEITH D. HENDRICKS/

Supervisory Patent Examiner, Art Unit 1794